

E3ELRAMS1

Sentence

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

11 CR 1032 (PAE)

5 ANIBAL RAMOS,

6 Defendant.

7 -----x

8 New York, N.Y.

9 March 14, 2014

3:23 p.m.

10 Before:

11 HON. PAUL A. ENGELMAYER,

12 District Judge

13
14 APPEARANCES

15 PREET BHARARA

16 United States Attorney for the
Southern District of New York

17 NOLA HELLER

Assistant United States Attorney

18 BENNETT EPSTEIN

19 STEVE ZISSOU

Attorneys for Defendant

20 ALSO PRESENT: FRANCISCO OLIVERO, Spanish Interpreter

21 MARIA ELENA ALVARADO, Spanish Interpreter

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1 (Case called)

2 THE COURT: All right. I'll note that we have an
3 interpreter here assisting Mr. Ramos today.

4 We're here today to impose sentence in United States
5 v. Anibal Ramos. Mr. Ramos pled guilty on April 15, 2013, to
6 conspiracy to participate in a racketeering enterprise and to
7 participation in a conspiracy to violate the narcotics laws of
8 the United States.

9 In preparation for today's proceeding I have reviewed
10 a substantial volume of materials and I'm going to list them
11 for counsel.

12 I've reviewed the plea agreement and the transcript of
13 the plea proceedings. I've also reviewed a couple letters that
14 Mr. Ramos sent me at an earlier stage in the proceeding
15 relating to prison access issues. I have reviewed the
16 presentence report dated February 11, 2014, including the
17 recommendation and addendum to that report.

18 I've also received and reviewed the following
19 additional submissions specific to the sentencing process:
20 defendant's letter dated October 6, 2013 to the probation
21 officer objecting to an earlier version of the presentence
22 report, defendant's supplemental letter dated October 17, 2013
23 containing other objections to that report, defendant's
24 sentencing submission dated March 4, 2014, which attaches the
25 defendant's earlier submissions to the probation department, a

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1 January 3, 2014 letter from the defendant to the Court, and a
2 February 9, 2014 email from the defendant to Mr. Epstein. It
3 also attaches a job evaluation form for Mr. Ramos's work at the
4 MDC and transcripts of two wiretap conversations in which
5 Mr. Ramos participated.

6 I also reviewed a supplemental sentencing submission
7 dated the same day as the main sentencing submission, March 4,
8 2014, this one submitted by Mr. Ramos's other lawyer,
9 Mr. Zissou, which in turn attaches two letters in support of
10 Mr. Ramos from his children.

11 I have reviewed the government's sentencing submission
12 dated March 11, 2014. And, finally, I have reviewed
13 defendant's second supplemental sentencing submission dated
14 March 12, 2014.

15 So with that long recitation, have the parties
16 received each of those submissions?

17 MS. HELLER: We have, your Honor.

18 MR. EPSTEIN: Yes, your Honor.

19 THE COURT: Is there anything I've left out?

20 MR. EPSTEIN: No, sir.

21 MS. HELLER: No.

22 THE COURT: Okay. Turning then to the presentence
23 report -- and because I've been given two iterations of it, to
24 be quite clear, I'm referring to the later one dated
25 February 11 of this year.

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1 Mr. Epstein, have you read the presentence report?

2 MR. EPSTEIN: I have.

3 THE COURT: Have you discussed it with your client?

4 MR. EPSTEIN: I have.

5 THE COURT: Mr. Ramos, have you read the presentence
6 report?

7 THE DEFENDANT: (All answers in English) Yes, your
8 Honor.

9 THE COURT: And have you discussed it with
10 Mr. Epstein?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: The answer is yes?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Have you had the opportunity to go over
15 with Mr. Epstein any errors in the report or anything else that
16 should be taken up with the Court?

17 THE DEFENDANT: Yes, your Honor.

18 THE COURT: How about you, Ms. Heller, have you
19 reviewed the presentence report?

20 MS. HELLER: I have, your Honor.

21 THE COURT: I know there's been some back and forth
22 between counsel vis-a-vis the report. What I'm interested in
23 understanding is concretely as to the specific factual
24 representations in the report, put aside the guideline range
25 for a moment, are there any objections to the report regarding

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1 its factual accuracy?

2 MR. EPSTEIN: Other than as written by our letters in
3 which we took issue with probation report's characterization of
4 several different matters, we have no other objections.

5 THE COURT: That's important. But I think what I need
6 to do is now have you cast your objections here and now as it
7 relates to the specific parts of the presentence report. It
8 looked to me as if the paragraphs in question that may be of
9 consequence here are between 60 and 62.

10 MR. EPSTEIN: I think that's correct, your Honor.

11 THE COURT: Why don't we do this. Just in the
12 interest of having a focused conversation, why don't you go
13 step-by-step and starting with paragraph 60, tell me what if
14 anything there you object to and I'll then hear from Ms. Heller
15 on the point and we'll see whether or not the objections can be
16 resolved, smoothed over, determined to be immaterial, or
17 whether we need to do something else to resolve the factual
18 dispute.

19 MR. EPSTEIN: I'll attempt to do that, Judge. I hope
20 I'm complete.

21 THE COURT: If you could keep your voice up.

22 MR. EPSTEIN: Can you hear me now?

23 THE COURT: Much better.

24 MR. EPSTEIN: Okay. Your Honor, we discuss in our
25 letter, on page 5 of our main letter, if I can call it that,

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1 and I'm referring to my letter of --

2 MR. ZISSOU: Judge, I'm sorry, I don't mean to
3 interrupt Mr. Epstein. But Mr. Ramos doesn't need the
4 interpreter and so we've elected to proceed without it. He's
5 happy to answer any inquiry that your Honor may have.

6 THE COURT: Is that right, Mr. Ramos? You answered my
7 earlier question in English. Are you comfortable doing that?

8 THE DEFENDANT: Yes, your Honor.

9 THE COURT: Can you fully understand everything I've
10 said before?

11 THE DEFENDANT: Yes, your Honor.

12 THE COURT: And what your counsel have said?

13 THE DEFENDANT: Yes, your Honor.

14 THE COURT: Okay. Very good.

15 Are counsel okay if we excuse the interpreter?

16 MR. ZISSOU: Well, actually, Judge, the secondary
17 request is that you allow them to interpret for Mr. Ramos's
18 wife because she's present in the courtroom. She doesn't have
19 the same hold of the English language.

20 THE COURT: I want to make sure that doesn't create
21 any issue for our hardworking interpreters.

22 THE INTERPRETER: Thank you, your Honor.

23 THE DEFENDANT: Thank you very much.

24 THE COURT: I guess, Mr. Epstein, what I'm hoping to
25 do here, although I've read your letters -- there has been

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1 enough back and forth here -- I'm hoping the issues may be a
2 little more narrower or more crystallized. Rather than
3 recapitulating a reference to your letter -- and I'll pull it
4 out here -- I'm hoping you can articulate for me concretely
5 what you'd like removed or changed or modified as to
6 paragraph 60.

7 MR. EPSTEIN: Sixty.

8 THE COURT: Look, I see your letter from March 3 which
9 says that you believe that these three paragraphs contain
10 materially erroneous characterizations.

11 Is there anything inaccurate in paragraph 60, putting
12 aside whether you'd like to add anything, is there anything
13 written there that is inaccurate?

14 MR. EPSTEIN: No, your Honor. Paragraph 60 is
15 accurate.

16 THE COURT: Okay. Let's turn to paragraph 61.

17 MR. EPSTEIN: Yes, your Honor. The way that phone
18 call is described in paragraph 61 we object to in its entirety,
19 and I think we specified in my letter on pages 5 and 6.

20 THE COURT: And, look, I've read both parties'
21 competing constructions of the conversation.

22 Ms. Heller, I'm happy to hear from you. I will give
23 you both this initial reaction which is there's a lot broader
24 context than this one conversation. I think I understand
25 enough about Mr. Ramos's role and the nature of El Combo such

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1 that it's not clear to me that it's necessary for me to resolve
2 the competing characterizations, if you will, of this
3 particular phone call. I've read the words used on the call,
4 and it's not clear to me how productive it would be, in effect,
5 to excavate the different interpretations here.

6 And so my instinct, but I'm happy to hear from both of
7 you before I move off of it, is that it is not necessary to get
8 to a unitary interpretation of what was meant on that call for
9 me to arrive at a reasonable sentence in this case.

10 MR. EPSTEIN: I agree with that, Judge.

11 MS. HELLER: As do we.

12 THE COURT: Then, Ms. Heller, just in the interest of
13 simplicity and clarity of the sentencing record, I guess the
14 safe thing to do is to state that I will disregard, therefore,
15 paragraph 61. In other words, I've read the transcript of the
16 call. Each of you has a very different construction of what
17 goes on in the call. I feel like I'm well situated to sentence
18 Mr. Ramos based on a whole host of other things that give me a
19 good understanding of this case. It's not clear to me I need
20 to do anything other than acknowledge that I've read the
21 transcript of the call and I'm taking the words of the call for
22 what they're worth.

23 I'm trying to figure out, counsel, I want to move past
24 this so it doesn't become a needless appellate issue, frankly,
25 when it's not consequential to me.

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1 MR. EPSTEIN: I wholly agree, Judge.

2 MS. HELLER: That's fine, your Honor. Your Honor
3 could disregard paragraph 61 and 62 with the understanding,
4 because they both summarize calls, with the understanding that
5 your Honor has read the calls and are not disregarding what
6 your Honor has read but would just not have the
7 characterization of the calls in the PSR.

8 THE COURT: Are you comfortable with that?

9 MS. HELLER: Totally fine. In fact, your Honor, the
10 only reason we have been including summaries sometimes of the
11 calls is that I believe in prior sentencings your Honor had not
12 been considering wiretap calls unless they were in the PSR. So
13 that's why we put it in.

14 THE COURT: And I appreciate your doing that. And as
15 you know, the challenge here, right, is that often there's a
16 lot of texture about the particular defendant's role and if
17 it's not in the PSR and then we get into an issue of whether I
18 can credit the government's sentencing memo at sentencing. So
19 the better course is to put it in the PSR and force the issue
20 as to whether there's a factual dispute.

21 MS. HELLER: Right.

22 THE COURT: In this particular case, I've read the
23 transcript and I don't regard the resolution of the subjective
24 intent of Mr. Ramos on these particular calls as really moving
25 the needle. So I think one way to do this is simply to say

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1 whether 61 and 62 are in or out, they would not affect the
2 sentence I would impose here. But counsel are on notice that I
3 have read the transcripts of the calls and I am considering
4 those transcripts for the words articulated and reflected
5 there.

6 MS. HELLER: And that sounds perfectly fine to us,
7 your Honor. And our offer stands that we put in our submission
8 that if your Honor wants further interpretation from a witness,
9 we'd be happy to offer a witness who was a participant in the
10 call who could explain them.

11 THE COURT: Mr. Epstein, are you comfortable with
12 that?

13 MR. EPSTEIN: I am, Judge.

14 THE COURT: All right. Having heard no objection to
15 paragraph 60 and with the understanding that what is in 61 and
16 62, although remaining in the report is not material to the
17 sentence I would impose, are there any other factual objections
18 to the PSR?

19 MR. EPSTEIN: No, Judge. I think that's it.

20 THE COURT: Okay. All right. How about you,
21 Ms. Heller, any factual objections from the government?

22 MR. EPSTEIN: No, your Honor.

23 THE COURT: Okay. The presentence -- I will then
24 adopt the factual recitations set forth in the PSR in its
25 entirety while making the point that paragraph 61 and 62 are

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1 not ones that will be consequential to my sentencing
2 determination.

3 The presentence report will be made a part of the
4 record in this case. It will be placed under seal. In the
5 event an appeal is taken, counsel on appeal may have access to
6 the sealed report without further application to the Court.

7 Is there any reason why counsel's sentencing
8 submissions should not be publicly filed?

9 MR. EPSTEIN: No, your Honor. I believe I did.

10 THE COURT: You may well have. I just as a matter of
11 course want to make sure that people do so.

12 MR. EPSTEIN: I believe your Honor's rules called for
13 that and I did file them ECF.

14 THE COURT: You'd be surprised how often they are not
15 and that's why I have this line in my sentencing script.

16 MS. HELLER: Your Honor, as per your standing
17 directions, we haven't yet filed.

18 THE COURT: Very good. Thank you.

19 MS. HELLER: But we will.

20 THE COURT: We now come to the issue of the sentencing
21 guidelines. Although the Court is no longer, of course,
22 required to follow the sentencing guidelines, I am required to
23 consider the applicable guidelines in imposing sentence. To do
24 so it's necessary that the Court accurately calculate the
25 guideline sentencing range.

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1 In this case there is a plea agreement. The parties
2 stipulated to a particular calculation of the sentencing
3 guidelines. They agree that the offense level is 27, the
4 criminal history category was III, and the guideline range was
5 87 to 108 months. The PSR has accepted the parties'
6 calculation of the offense level, 27, and with no objection to
7 that I will so find that the offense level is 27.

8 The PSR, however, has calculated Mr. Ramos's criminal
9 history at IV based on a 1996 youthful juvenile offender
10 adjudication which had been sealed at the time of the parties'
11 plea negotiations and, therefore, was not known.

12 Counsel, if you choose to disagree, I'll give you the
13 opportunity to, but let me set out my views about this at the
14 outset having read the submissions.

15 I am persuaded that that offense does as a technical
16 matter count in the calculation of Mr. Ramos's criminal
17 history, meaning that the criminal history category would be IV
18 and the guideline range would then be 100 to 125 months.

19 However, like Ms. Heller, I think there is an
20 important value in respecting the parties' plea agreement. It
21 was negotiated in good faith by all sides and, therefore, I am
22 prepared to commit to you all that I will not sentence the
23 defendant to a sentence above the negotiated guideline range of
24 87 to 108 months' imprisonment.

25 With that, I would hope there isn't any need for us to

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1 have legal argument as to the youthful juvenile offender
2 adjudication, but I give you the opportunity to do so.

3 MR. EPSTEIN: No, your Honor. That's perfectly fair
4 and I appreciate that very much.

5 I would like to add, however, though, a matter came up
6 recently because of a recent event in Washington and I'm
7 referring to the proposed two points less guideline that
8 apparently is on the verge of being passed. And Ms. Heller and
9 I had an email dialogue about that and my understanding was
10 that the attorney general directed local prosecutors not to
11 oppose the advance imposition or consideration of the two
12 points less guideline.

13 When I questioned Ms. Heller about that she indicated
14 that although that was stated in the press, apparently the DOJ
15 policy is more nuanced than that and that the government is
16 going to oppose if I ask the Court to impose two points less.

17 MS. HELLER: The nuance is as follows. We are
18 directed to follow what's been colloquially been known as the
19 Holder memo in terms of applying this new downward adjustment.
20 And what the Holder memo specifies is that high-level or
21 violent offenders would not be subject to Holder memo
22 consideration and this downward adjustment.

23 So for Mr. Ramos, we certainly consider him a
24 high-level offender in this case and a high-level member of a
25 violent gang. So we already met with the supervisors as to

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1 Mr. Ramos in particular yesterday when the memo came down, and
2 the office concluded he would not be eligible for that based on
3 the Holder memo's terms.

4 THE COURT: Look, I take it I can take for what it's
5 worth the fact of the broader reconsideration in Washington of
6 the severity of punishments for marijuana dealing, even if the
7 guidelines themselves, the guideline calculation themselves
8 stays intact. Correct?

9 MR. EPSTEIN: I think that's perfectly fair, Judge. I
10 wanted to point out to your Honor that apparently the text of
11 the proposed guideline does not say what the Holder memorandum
12 says. The text does not make that a factor, the high-level
13 caveat does not make it a factor -- I read the text last
14 night -- and that the policy reasons behind the two points less
15 would still apply to Mr. Ramos, those policy reasons being of
16 course the fact that sentences are too long, that sentences for
17 marijuana in particular are too long, and sentences on minority
18 people punish their families disproportionately.

19 With that being said, I'm not going to ask your Honor
20 to adjourn the case until the new guideline comes into effect
21 in November sometime, especially since your Honor has expressed
22 what I think is the appropriate view that the Court is free to
23 take that into consideration.

24 THE COURT: In the 3553 world, where that is the
25 determinative framework, it seems to me I'm at liberty to

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1 factor in the Justice Department's reassessment of the severity
2 of punishments for marijuana distribution, and I will consider
3 that for what it's worth. It's duly noted.

4 MR. EPSTEIN: That's perfectly fine. Thank you,
5 Judge.

6 THE COURT: All right. So the record is clear, I find
7 that the guideline range that applies here is 100 to 125
8 months. I am, however, committed to not imposing a sentence
9 above the negotiated range of 87 to 108 months. And so the
10 record is crystal clear, the sentence I'm going to impose in
11 this case would not be any different regardless of whether the
12 guideline range here were calculated as 87 to 108 or 100 to 125
13 months.

14 Okay?

15 MR. EPSTEIN: Okay.

16 THE COURT: It's the underlying facts, ultimately, and
17 not this rather technician's nuance as to how the guidelines
18 get calculated that is what matters to me.

19 MR. EPSTEIN: We understand that, Judge.

20 THE COURT: The next subject I need to touch upon but
21 just that is departures which is within the guidelines
22 framework in the plea agreement, both parties agree that
23 neither an upward nor a downward departure within the
24 guidelines framework is merited, although the parties' reserve
25 the rights to move for variances in either direction.

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1 Having reviewed the PSR and the parties' submissions,
2 I share that conclusion. I don't think as a matter of strict
3 guidelines law that a departure is available here as a matter
4 of law and I decline, therefore, to depart.

5 Okay. Having dealt with the guidelines, does the
6 government wish to be heard with respect to sentencing?

7 MS. HELLER: Yes, briefly, your Honor. Our sentencing
8 submission contains really the heft of what we wanted to say
9 here.

10 But Mr. Ramos is actually, he's an unusual defendant
11 in this case because -- and Mr. Epstein correctly assesses in
12 his sentencing submission basically how we got to him. We
13 always knew about him from witnesses that we've had on a
14 long-term basis, and as we were doing the wiretaps in his case,
15 he started to come over them.

16 But as your Honor knows, this was really a case
17 focused on the Bad Boys sect and not on the El Combo sect, but
18 Mr. Ramos came over our wiretap and we had more witnesses who
19 gave us information about him. When we arrested Mr. Ramos and
20 it became clear to us as we already knew he was the leader of
21 the El Combo sect, which was the rival of the very dangerous
22 Bad Boys sect. And Mr. Ramos, we don't know as much about what
23 exactly he ordered, what exactly he had his hands in in terms
24 of what his lower down with the lower members in El Combo did.

25 We do know, very clearly know that he was the head of

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1 El Combo and that we actually have witnesses who were above him
2 and who communicated with him about high-level management
3 issues about the gang. Mr. Ramos attended committee meetings.
4 He communicated with Mr. Sierra. And Mr. Ramos had the
5 authority to weigh in on matters of violence.

6 And as we included in our sentencing submission, one
7 of the main issues that was playing out in 2011 was Flaco, who
8 was the head of the 268 Sunset faction of the Trinitarios gang.
9 And what was happening there was that Flaco, whose real name is
10 Alberto Santana, had decided he was going to take his sect,
11 which was really a Brooklyn sect, and bring them to the Bronx.
12 And this was very upsetting to El Combo and the Bad Boys
13 because the Bronx was their territory.

14 And this was a war. There were numerous shootings
15 back and forth between 268 and various sects in the Bronx. And
16 that's part of what we know about Mr. Ramos specifically is
17 what he was up to in 2011. He was involved in high-level
18 discussions with Gonzalez, who was the head of the overall
19 Bronx, about what to do about Mr. Santana, about Flaco, you
20 know. And according to Mr. Gonzalez, there was a green light
21 issued against Flaco and Mr. Ramos would have had the power to
22 oppose that and say no, I don't want.

23 THE COURT: Was it a green light to kill him or a
24 green light to injure him?

25 MS. HELLER: So a green light is an interesting

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1 concept in Trinitarios lore, and your Honor will hear more and
2 more about it.

3 THE COURT: For the record, Ms. Heller knows this, I'm
4 currently presiding over a lengthy trial involving two
5 defendants who are alleged to be members of the Bad Boys. So
6 I'm in the process of getting something of an education beyond
7 what I've learned in the sentencing process.

8 MS. HELLER: Yes. But what a green light is is
9 authorization from a high-level member of the gang -- and only
10 certain people had the ability to issue green lights -- that a
11 fellow member of the gang should be acted against. And what
12 that could mean is an assault or it could mean as bad as a
13 murder. It basically means do what you have to do to this
14 person and if the person ends up dead, okay. And but it's only
15 against a fellow member of the gang.

16 So there was a green light against Santana and
17 Mr. Ramos didn't authorize that green light, but he also didn't
18 oppose it, and that is as close as we can come to a specific
19 act of violence that we've associated with him.

20 And, again, to be very frank, and I think Mr. Epstein
21 would agree with me, the reason why -- or maybe he won't agree
22 with me on the reason but he'll agree with me that we don't
23 have any other specific acts -- the reason why is we don't have
24 any of the people who worked under him in this case. So we
25 don't have as many specifics, and we weren't wiretapping his

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1 phone. But we certainly do know about that and we do know
2 about his role and we do know about his long-time role as the
3 head of El Combo.

4 We also know about the violent back and forth between
5 El Combo and the Bad Boys. And as your Honor knows, the murder
6 of Izzy Dominguez resulted from that back and forth. That was
7 a shootout in 2009 in the Bronx between members of the Bad Boys
8 and members of El Combo and Izzy Dominguez, who was a member of
9 El Combo, was killed in that shootout. Julian Lopez in this
10 case has pleaded guilty to his participation in this shootout.
11 But that is how --

12 THE COURT: Is Julian Lopez a Bad Boy?

13 MS. HELLER: He is a Bad Boy. Your Honor, Mr. Ramos
14 is the only member of El Combo in this case. So it wasn't made
15 up, this war, and there was a back and forth and someone did
16 end up dead as a result.

17 Mr. Ramos also ran a significant marijuana
18 distribution operation. And the search warrant I neglected to
19 put in my sentencing submission. I just want to make clear for
20 your Honor there was a search warrant executed at his house the
21 day of his arrest and found at that search warrant was in a
22 safe there was a handgun and the handgun was inoperable. It
23 was in quite a state of disrepair -- it was missing a bunch of
24 essential parts. But there was a handgun that was recovered as
25 well as ammunition in a plastic bag. There were multiple bags

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1 of marijuana that were packaged for distribution in plastic,
2 small plastic bags. There was also a white bag of cocaine, and
3 there was a Trinitarios constitution. There was drug
4 paraphernalia, little packaging bags, and there were beads
5 associated with the Trinitarios. So that was all found in
6 Mr. Ramos's apartment on the day of his arrest, and I neglected
7 to put that in my submission. It should have been in there.

8 As far as the gun, we're not going to make any
9 significant arguments about the gun because, again, it was a
10 broken gun and we don't have any specific examples of Mr. Ramos
11 using a gun; in fact, to the contrary. What our evidence would
12 show at a trial would have shown at a trial against Mr. Ramos
13 was that he was not a street actor. He was someone who
14 directed others. He had a first in command whose name was
15 Marceluto, that was his nickname, and that was a person who he
16 called upon to carry out whatever acts he was going to order.
17 But Mr. Ramos was not controlling the streets and firing guns
18 and I wouldn't say he was. That wasn't his role. He had a
19 job.

20 And, as I said, we believe very much that he led a
21 double life in that he was actively involved in the management
22 of this violent gang, but he also was making money
23 legitimately, and he was running a marijuana distribution
24 organization. So he is an interesting case.

25 THE COURT: Can I ask you how the 100 to 400 kilogram

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1 estimate was arrived at?

2 MS. HELLER: Yeah. I think the duration of the
3 marijuana trafficking and the nature of the business was I
4 believe in 24/7 operation over a long period of time and also
5 holding him responsible for the actions of coconspirators.

6 THE COURT: He's being held responsible as to
7 marijuana, solely for marijuana thought to be sold by El Combo?

8 MS. HELLER: Yes, your Honor. And that's the quantity
9 that the parties agreed upon.

10 THE COURT: Understood. I was curious how you got
11 there.

12 MS. HELLER: It's very large quantity, but I think it
13 goes to the length of time that we're looking at here.

14 So I think the key point here, your Honor, that's what
15 we tried to do when we formulated this plea agreement was to
16 key the offense level to what we knew we could prove, which was
17 the long-term marijuana network and the high-level membership
18 in the gang. So a plea to racketeering conspiracy with the
19 four-level leadership enhancement, that's also key to the
20 marijuana guidelines, we felt like it encapsulated what we knew
21 about Mr. Ramos and what we could prove right now about
22 Mr. Ramos.

23 We do believe that the most significant fact that your
24 Honor should consider is the duration of his leadership at the
25 highest levels of the gang and that this is not a minor player

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1 and this is not someone that was a leader for a short period of
2 time. And that's really why we're standing here today, your
3 Honor. That's really why Mr. Ramos was included in this case.

4 And I can answer any questions your Honor has, but our
5 position is that the guidelines range in this case was
6 carefully thought out, and we believe it positions Mr. Ramos
7 exactly where he should be in terms of relative culpability as
8 well.

9 THE COURT: Is the government pursuing forfeiture?

10 MS. HELLER: No, your Honor.

11 THE COURT: All right. Thank you.

12 Mr. Epstein.

13 MR. EPSTEIN: Your Honor, if your Honor please, may I
14 use the podium?

15 THE COURT: Sure.

16 MR. EPSTEIN: I'm a little nearsighted and I can't see
17 my notes if I stand up and can't see my notes on the table.

18 THE COURT: Happy to have you there.

19 MR. EPSTEIN: Judge, let me just cover briefly, I'm a
20 little bit taken aback by the government's kind of sleight of
21 hand or guilt by implication arguments that they've made
22 throughout their submissions and that they've made again today.

23 I think, first of all, let me correct one thing right
24 away. There was no cocaine found in Mr. Ramos's apartment. I
25 believe I've seen a lab report that came back to be some kind

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1 of cleaning fluid. It was white powder, suspected cocaine, and
2 I believe the lab report that came back was that it was tested
3 and found to be a household cleaning agent of some kind.

4 MS. HELLER: I stand corrected then, your Honor. I
5 was trying to find the lab report, and I completely trust
6 Mr. Epstein on that and I'm sorry for that misrepresentation.

7 MR. EPSTEIN: And the implication is that we didn't
8 investigate the El Combo but we didn't really know what he did
9 but he must have done something bad. What we know a lot about
10 El Combo and we know a lot about the nature of his leadership
11 of El Combo. I think one thing we know for sure is that he was
12 totally against violence. He expressed that in numerous
13 conversations. I cited those conversations to your Honor both
14 from the wiretap and also from his Facebook account in which
15 people messaged him both during the time he was on the street
16 and immediately after his arrest saying you don't belong in
17 jail. You've told us to stay off the street, and we consider
18 you like a father.

19 (Continued on next page)

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21
22
23
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25

E3e2ram2

Sentence

1 MR. EPSTEIN: Also, in his wiretap conversations, he
2 repeatedly, and forgive me for the boldface, your Honor. I
3 know sometimes people don't like to be pointed at a boldface
4 thing, but I thought it was important to show the flow of all
5 of those statements that he made that were nonviolent
6 statements to show that he was committed to nonviolence. The
7 thing about Flaco is almost like a sleight of hand.

8 If your Honor could understand, and does understand, I
9 am sure, that he and the Bad Boys, notwithstanding some of
10 these conversations that were had between him and Gonzalez --
11 and, by the way, there were only two conversations. There
12 weren't a series of them. In the conversations there are some
13 indications that we pointed out that Mr. Ramos was
14 uncomfortable speaking to Mr. Gonzalez and tried to avoid
15 Mr. Gonzalez. There were also Junito conversations from the
16 jail where Junito wants to see Mr. Ramos because Mr. Ramos is
17 not going with the program. He is acting independently from
18 the Bad Boys. He does not want to be part of the Bad Boys, and
19 they are trying to bring him in the fold.

20 So to conclude --

21 THE COURT: Sorry, does that mean, just help me with
22 what the right inference is from that. I think you are trying
23 to suggest the inference that he therefore nonviolent. The
24 other inference would be that if Junito wants to bring the two
25 factions together.

E3e2ram2

Sentence

1 MR. EPSTEIN: Yes.

2 THE COURT: And that Mr. Ramos is the leader of a
3 different faction, but it wouldn't say one thing -- one way or
4 the other about a different philosophy *vis-à-vis* violence.

5 MR. EPSTEIN: No, but I think there is one implication
6 from that that is clear, and that is that the Bad Boys and
7 El Combo were two different factions that didn't want to have
8 anything to do with each other. Mr. Ramos's philosophy with
9 respect to the El Combo was, Don't get involved in violence. I
10 don't want to deal with violence. That stuff is terrible for
11 us. It hurts us. It hurts the young people who are members of
12 the El Combo, and we don't warrant to do it. That's what it
13 shows.

14 And the Junito conversations are Junito saying to
15 people, Contact Moreno and get him to come into the fold. And
16 some of those -- and two of those conversations, one I cited in
17 my letter to probation and not in my main letter. I cited one
18 in my main letter and one in my letter to probation.

19 This is a letter on Mr. Zissou's letterhead. "Junior
20 Sierra tells someone named @Folano that he wants to speak to
21 the defendant" -- that is, Mr. Ramos -- "that he has a whole
22 year of throwing in the towel on him and his people, and they
23 are not trying to cooperate. They just do what they want to
24 do." That's call number 122 of the Junito conversations.

25 Then I cite another one in my main letter. It is also

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Sentence

1 one of the Junito conversations.

2 (Pause)

3 MR. EPSTEIN: I'm sorry. I am not finding it right
4 away, but it is in there. Just give me second.

5 MS. HELLER: While Mr. Epstein is talking, if I could
6 reserve -- I know your Honor doesn't do it, as you had
7 mentioned, but -- a very short amount of time to respond to
8 him.

9 (Pause)

10 MR. EPSTEIN: On page 3 of my main letter, "According
11 to the discovery in the case, as reflected in several calls
12 between an imprisoned leader of the Trinitarios" --

13 THE INTERPRETER: I'm sorry. Request for the attorney
14 to slow down.

15 MR. EPSTEIN: I apologize.

16 "According to the discovery in the case, as reflected
17 in several calls between an imprisoned leader of the
18 Trinitarios known as Junior and members of the Bad Boys,
19 including their leader, known as "Webb," it is clear Mr. Ramos
20 resisted participating in their overall vision for the
21 organization. Webb is heard to complain to Junior about
22 Mr. Ramos and discuss with him on various occasions that
23 Mr. Ramos, who was known as "Moreno," was uncooperative and did
24 not want to be controlled by them. For example, during one
25 such discussion on November 26, 2010, Webb reports to Junior, I

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Sentence

1 went to Moreno's mother's funeral to speak to him. Moreno told
2 me they need to talk among themselves first, so this is holding
3 us back," "holding us back" meaning holding back the unity that
4 Junior was seeking to establish.

5 So to me it sort of strikes me as unusual, given that
6 relationship between the Bad Boys and El Combo, that somebody
7 from El Combo would be consulted on a veto, would have the veto
8 power to give a green light, whatever a green light means, and
9 I think we are certainly not exactly sure about that, but that
10 he would have the power to do that or would have been consulted
11 about doing that. And I think it is clear that had he been
12 consulted, he probably would have said everything that he said
13 in the conversations that are recorded with Webb, which is,
14 This stuff is bad, don't get involved with it.

15 So I just wanted to start off by saying that this sort
16 of attempting to accuse him by virtue of a vacuum I think is
17 decidedly unfair.

18 Now I would like to go into my remarks which I have
19 prepared for the court.

20 THE COURT: Please go ahead.

21 MR. EPSTEIN: First of all, I think that the
22 guidelines in this case, although there are no guideline
23 departures in the case, I think the guidelines in this case
24 treat him unfairly in the sense that they overrepresent his
25 future recidivism, they overrepresent the things that criminal

E3e2ram2

Sentence

1 history and guidelines are supposed to represent. Take the
2 criminal history, your Honor has already dealt with the YO, and
3 there would have been some sort of an issue as to whether or
4 not that meant the ten-year requirement, but your Honor has
5 dealt with that. I am not even going to go into that. But if
6 you look at all the other aspects of his criminal history, he
7 was 22 years old at the time. He is now 36.

8 And if you look at the issue of his committing a crime
9 when he was on parole, I think we stated it during the plea
10 allocution that while we agree that he was a Trinitario and
11 therefore was -- did he commit some sort of racketeering
12 participation while he was on parole, I think it is clear from
13 the chronology that he becomes seriously involved after his
14 parole, after he meets his wife, after he meets his stepson,
15 who was involved with this group. That's when his
16 participation starts. So he is sort of on the cusp. That two
17 points for parole I think is overstated. I think the other
18 points he accumulates when he is 22 years old are overstated.
19 So that he gets -- forgive the vernacular -- screwed on the
20 guidelines with respect to that to some degree.

21 Also we have the two points less that we discussed as
22 a result of the Attorney General's memorandum, and we also have
23 that four-point role adjustment, that four points for
24 leadership, and I think we can fairly say that we know he was a
25 leader. He himself says in some of the conversations with

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Sentence

1 Mr. Gonzalez that, I felt disrespected when somebody from my
2 group went to Yonkers and formed another group and nobody told
3 me so. We know that he is a leader, but that statement alone
4 and the prison calls with respect to him and the other
5 statements that he makes I think characterize his leadership in
6 many respects as a benevolent leader, as someone who was
7 against violence, who was an *éminence grise* and sought to
8 influence some of his members not to be on the streets. So I
9 think that that four-point leadership enhancement also doesn't
10 go as far as it would have been intended to go in terms of
11 portraying his culpability.

12 We also, I think, can conclude that one aspect of his
13 so-called leadership was to keep troublemakers out of his area,
14 and that I suppose has two sides to that coin. One side of
15 that coin is territorial, that he is selling marijuana in the
16 area and he wants to keep it that way. But there is another
17 side to that coin, and that is that he doesn't want
18 troublemakers to be in his area because he doesn't want his
19 people to be involved in trouble.

20 So I think when you talk about leadership, the
21 question really is how do you characterize that leadership?
22 And I think in this case it is in many respects benign and in
23 many respects ambiguous and not always the kind of leadership
24 that should draw a dire conclusion in terms of the guidelines.

25 Your Honor, I thought it was Clausewitz, but it was

E3e2ram2

Sentence

1 Aeschylus who said that in war, truth is the first casualty.

2 And I have developed --

3 THE COURT: He also said that war is a continuation of
4 politics by other means.

5 MR. EPSTEIN: I did see that. I did my Clausewitz
6 research before making sure it was Aeschylus and not
7 Clausewitz.

8 I have an Epstein corollary to the Aeschylus
9 statement. If truth is the first casualty in war, then in a
10 100-defendant RICO prosecution -- or I don't know if we are up
11 to 100 yet -- let's say 80-defendant RICO prosecution, the
12 first casualty is individuality.

13 I would like to share with you two personal
14 observations that, for me, help define this case. The first is
15 that, as we know, Mr. Ramos regained custody of his children
16 who were five and six years old at the time.

17 THE COURT: I couldn't quite tell. Had they been with
18 the mother or were they in a foster home at the time?

19 MR. EPSTEIN: Both. They had been taken away from the
20 mother because of certain negative aspects of her personality.
21 I think her companions were abusing them, and they went into a
22 foster home. Mr. Ramos, when he got out of prison, one of the
23 things he did was he took parenting classes and he hired a
24 lawyer, went to family court, and got them back, first on a
25 visitation basis and then on a permanent basis. He was awarded

E3e2ram2

Sentence

1 custody of them.

2 THE COURT: Who takes care of the kids now that he is
3 in jail?

4 MR. EPSTEIN: Dominicana, who is in court. His wife,
5 who is in court.

6 THE COURT: She is functionally their stepmother?

7 MR. EPSTEIN: She is their stepmother, yes. She takes
8 care of them.

9 Very early on in this case I had a *Jerry McGuire*
10 moment. I don't know if you remember that movie.

11 THE COURT: I do.

12 MR. EPSTEIN: There were two famous quotes in that
13 movie --

14 THE COURT: "Show me the money."

15 MR. EPSTEIN: The other one is "You had me at hello."
16 Well, when I met Mr. Ramos's children, they had me at hello.
17 Here they were, with their history, braces on their teeth, well
18 taken care of, and that said more to me than anything in this
19 case could say about what Mr. Ramos had accomplished after he
20 came out of jail. So even without knowing about his stellar
21 work record, about the fact that he worked two jobs, about the
22 fact that he went into debt in order to get them back, they had
23 me at hello. I knew all I had to know about his family
24 relationship when I saw that.

25 The second personal observation that I would like to

E3e2ram2

Sentence

1 make for the court is that my first job in the criminal justice
2 system was as an assistant district attorney in the Bronx, and
3 I was in the rackets bureau. My second job was when the
4 district attorney that I worked for became a judge. He was a
5 judge in New York County and Frank Hogan was the district
6 attorney. I went to New York County. I was sort of liberated
7 from the Bronx and went to New York County and I was his law
8 secretary. I had two main functions at that point, one of
9 which was to teach a course to the new Rockefeller judges about
10 eavesdropping under state law. Because I had been in the
11 rackets bureau, I had supervised a number of wiretaps. Now I
12 was in this Judge Roberts' chambers. I can tell you who he
13 was, Burton Roberts, very well-known, blessed memory, my
14 mentor. One of my jobs was to teach the new Rockefeller judges
15 in the expanded judiciary about the state of eavesdropping; and
16 the second one was to review eavesdropping applications that
17 were made by the New York County District Attorney's office and
18 advise the judge about the various issues as to whether he
19 should approve them and the issues that came up.

20 One of those applications from the New York County
21 District Attorney's rackets bureau was for a bug in the dining
22 room chandelier of a bookmaker. It wasn't a wiretap. It was a
23 bug to record ambient conversations. After a month or two of
24 that bug being in existence and not being very productive, an
25 application for renewal was made and the participants in a

E3e2ram2

Sentence

1 conversation were quoted as saying, "Break his leg." Well
2 immediately the application for renewal came in and there came
3 an application for an amendment to loan sharking and extortion.
4 And the support of that amendment was they overheard on the
5 bug, "Break his leg." So the judge approved the application,
6 and the individuals were indicted for not only gambling, but
7 loan sharking conspiracy, and that was all fine, only to learn
8 later, during suppression proceedings, that the quote "break
9 his leg" was actually "break its leg" and it occurred while the
10 participants were dining on a chicken.

11 Now, after this revelation, the prosecutors in the
12 case redoubled their efforts to cast even the most ambiguous
13 statements by these people as supporting their theory of the
14 case. They were, I think, embarrassed by the revelation.

15 Why do I raise that now? Because in a very
16 well-meaning way, the investigators in this case overheard
17 statements that Mr. Ramos was making and as a result of the
18 casualty of individuality that comes when you have a
19 100-defendant case, they stereotyped that statement as "I broke
20 someone's melon and sent them to the hospital." And it turned
21 out to be the equivalent of "break his leg." It was actually
22 that, Somebody was assaulted. I rushed him to the hospital. I
23 aided that person.

24 So we now have, in the rest of the conversations, this
25 gloss put on various statements that he made in those two

E3e2ram2

Sentence

1 conversations as if they were high-level discussions at some
2 sort of a conference of elders about goings-on in the
3 Trinitarios, when really an examination of the conversation
4 reveals that Webb was doing most of the talking and telling him
5 what was going on because he was not privy to a lot of this
6 stuff and that he was listening but not saying much because he
7 didn't have much to say other than, Don't get involved, and
8 here are examples of why I didn't get involved. He cites
9 certain examples of somebody taunting the other side and he
10 dressed him down but didn't want to get involved in taking any
11 action against him.

12 I think that what really speaks volumes about this
13 case is that the government -- we know, you and I, Judge, and
14 everybody sitting here, that this was a skeleton indictment
15 that was brought. It was a RICO conspiracy indictment with no
16 overt acts or objects, and that the government then spent the
17 better part of a year and a half trying to fill in the blanks.
18 When all was said and done, what we got from the government in
19 the government's sentencing submission was kind of a begrudging
20 acknowledgment that he was not involved in any violence, that
21 he didn't order any violence or didn't commit any violence,
22 only to come now to the point where, again, the government is,
23 in effect, asking you to punish him for what must have happened
24 that we don't really know about, but it must have happened.

25 Well, I ask the court to think about the "you got me

E3e2ram2

Sentence

1 at hello" factor here. Look at his background. Look at what
2 he did in state prison. He got himself a GED. He came out.
3 He went to work and worked for 14 years. He got his children
4 back. He got himself into debt and, because of those debts, he
5 became involved again in marijuana dealing, which we
6 acknowledge, but all the while being against violence, decrying
7 the violence, complaining about the violence. And then, just
8 take a look at this little insignificant document that I
9 attached. I didn't even know I had it, but Mr. Ramos must have
10 given it to me. It is a work evaluation from the MDC; and in
11 this little insignificant document, whoever was supervising him
12 at the MDC called him like the ideal employee -- eager, hard
13 working, somebody who could train other people as to how to do
14 the job, always reliable.

15 So I can say, Judge, he had me at hello and he had me
16 at goodbye, and now it is up to you, your Honor, I think, to do
17 the right thing in this case. What I recommend the court do is
18 I think a fair starting point is the sentencing guidelines
19 without the role enhancement in terms of the number that the
20 court comes up with, and to go down from there as a result of
21 the 3553(a) factors, to impose the sentence that I recommended
22 in my presentence submission, which is a sentence of 48 months,
23 and that's what I urge the court to do.

24 Thank you.

25 THE COURT: Thank you. Thank you, Mr. Epstein.

E3e2ram2

Sentence

1 MS. HELLER: May I just have a few minutes, your
2 Honor?

3 THE COURT: Say it again?

4 MS. HELLER: May I have a few minutes to respond?

5 THE COURT: Yes.

6 MS. HELLER: Your Honor, the government strongly
7 disagrees with Mr. Epstein's portrayal of Mr. Ramos as a peace
8 lover, and I believe his characterization of El Combo as some
9 sort of peace-loving faction of the Bronx Trinitarios gang
10 could not be further from the truth.

11 Your Honor has heard about countless conflicts between
12 violent conflicts, shootings, slashings, stabbings, a murder
13 that took place back and forth between El Combo and the Bad
14 Boys. This was not a one-way conflict.

15 And, your Honor, in terms of Mr. Ramos's specific
16 role, if your Honor has any doubts about whether Mr. Ramos was
17 opposed or was not opposed to violence that went on, we
18 respectfully request your Honor adjourn this proceeding so that
19 we can have a *Fatico* hearing at which we would call witnesses
20 who would characterize Mr. Ramos's leadership of El Combo and
21 they would testify that he was not a peace-loving leader. They
22 would explain that he was fully involved and that it was his
23 decision to order people to do things or to stop them from
24 doing them.

25 And then I need to quote from -- I wasn't planning on

E3e2ram2

Sentence

1 getting into the ins and outs of the calls, but I need to quote
2 from the wiretap, your Honor, because I think it is important.
3 I need to use Mr. Ramos's words himself, in the August 22 call,
4 which Mr. Epstein attached in his sentencing submission.

5 I am going to read from page 4 of 7 in that call, and
6 this is the portion, and I can.

7 THE COURT: Give me one moment. What's the date of
8 the call?

9 MS. HELLER: August 22.

10 THE COURT: This is the start time at 22:48:58.

11 MS. HELLER: Yes, and I am reading from the page that
12 says at the bottom page 4 of 7.

13 THE COURT: Go ahead.

14 MS. HELLER: And the context of this call, it is
15 Mr. Gonzalez and Mr. Ramos. Mr. Gonzalez, again, is the head
16 of the entire Bronx. He is consulting Mr. Ramos, who is the
17 head of El Combo. And the reason, by the way, that Mr. Epstein
18 said, Why would he be consulted? Because both the heads of the
19 Bad Boys and El Combo would be consulted because they were
20 equal, and Mr. Gonzalez was above both, so just to make that
21 clear.

22 All right. So then reading from the second full
23 paragraph where it says "Richard." "You know, nobody did
24 Moreno. You know for sure that nobody did. Just handle that.
25 Me personally, I'm tired of talking. Already these [N words]

E3e2ram2

Sentence

1 that's out of line. All them 268 [N words], we been spanking
2 them [N words]. I been out there personally. We've been
3 spanking them [N words], every day for the past month or so.
4 I'm not talking no more."

5 Then Mr. Mr. Ramos says, "No, I'm telling you" -- and
6 I'm not going to read this paragraph because he goes on to
7 describe an interaction that he has had with a 268 person. 268
8 is Flaco's faction.

9 THE COURT: 268 is what?

10 MS. HELLER: 26 is Flaco's faction. It is 268 Sunset.

11 So Moreno is talking about an interaction which he had
12 with a 268 person.

13 And then Mr. Gonzalez says, "That's what we on, [F]
14 everybody. Whoever ain't with our program, it's a wrap. I'm
15 not playing no more."

16 Mr. Ramos: "Me neither."

17 Mr. Gonzalez: "Whoever ain't with you or with the [N
18 words] that's authorized, you getting spanked, [N word]."

19 Mr. Ramos: "I told this [N word] from who'd I see?
20 'You got 24 hours [N word].' I went to 107. I went up there.
21 I said, 'Ya got 24 hours, my [N word]. Anybody not with the
22 program, ya gonna get down or ya gonna lay down. Ya wanna run
23 107 ya run 107 up here in 107. Ya don't come to the Bronx for
24 that [S word] without authorization. Point blank and simple.'"
25 It goes on.

E3e2ram2

Sentence

1 This is not the way someone who is a peace lover,
2 doesn't want conflict, someone who is saying, Stop. This is
3 full participation, full dialogue with Mr. Gonzalez about this
4 violent conflict that's escalating and escalating, saying, Get
5 out of here. You don't have authorization. I'm going to talk
6 to you. Get out.

7 It continues on page 6, two pages later. They are
8 talking about another new chapter that's been established. It
9 is Pelotero's chapter. And I am looking at the second
10 paragraph.

11 Mr. Ramos says, "Junito might get tight with me but
12 them [N words] is gonna get spanked. Off the muscle, I feel
13 disrespected. These [N word] just bounced out of here. They
14 went up there. They wanna start a business, just get some [F
15 word] little or some [S word]."

16 And then Mr. Gonzalez says, "Hear me out, Moreno. Let
17 them [N words] be because in reality we got bigger fish to
18 fry."

19 Mr. Gonzalez is the one here saying, Calm down,
20 Mr. Ramos; calm down, Mr. Ramos.

21 Then Mr. Ramos says: "Imma put it on standby because
22 you asked me to put it on standby."

23 So here we have a situation where it is Mr. Ramos, not
24 Mr. Gonzalez, who is talking about escalating, about violence,
25 about spanking someone. And then later down that page

E3e2ram2

Sentence

1 Mr. Ramos: "Me and you, we always on the same page."

2 This is not a situation where Mr. Gonzalez is
3 controlling Mr. Gonzalez, Mr. Gonzalez is forcing Mr. Ramos to
4 engage in acts of violence. These are two high-level leaders
5 of a violent gang talking about violent management of that
6 gang.

7 And we are not okay with Mr. Epstein's comments about
8 us not individualizing defendants. We have carefully
9 considered every defendant in this case. We have carefully
10 considered every wiretap call in this case. We believe our
11 characterization of Mr. Ramos's role is fair, it is accurate,
12 it is based on our hours and hours of meetings with multiple
13 witnesses, and our examination of multiple wiretap calls.

14 THE COURT: Thank you.

15 Mr. Ramos, do you wish to be heard?

16 THE DEFENDANT: Yes, your Honor.

17 Your Honor, with all due respect.

18 THE COURT: Speak into the microphone kindly.

19 THE DEFENDANT: With all due respect that you deserve,
20 your Honor, with all due respect that you deserve, your Honor.

21 MR. EPSTEIN: Is it okay if he sits down, Judge?

22 THE COURT: Yes, I think he should use the microphone.

23 THE DEFENDANT: You hear me now, your Honor?

24 THE COURT: I can hear you.

25 THE DEFENDANT: I heard Ms. Heller speak, and I want

E3e2ram2

Sentence

1 to comment on that. I don't deny I am the leader of the Combo.
2 I am not denying that, your Honor. I am not denying that I
3 sold drugs for a reason -- to have a home, not to get kicked to
4 the street. But when she claims that Richard Gonzalez -- I had
5 no affairs with Richard Gonzalez. Richard Gonzalez claims or
6 had told her or I don't know how it came about, the
7 conversation, he did -- I had two wiretaps with him, and in one
8 of them wiretaps, when I am talking to him, in the background
9 my son, younger son is with me. I'm going to the store with my
10 younger son. I rushed Richard Gonzalez because I didn't want
11 to be a part of it.

12 The Combo, when I became a trinnny, I became a trinnny
13 in jail for different reasons. I didn't have money. I didn't
14 have clothing. I didn't have things like that. My family was
15 very poor. They provided me with these things. I became a
16 trinnny in jail for a totally different reason than from what it
17 is in the street, your Honor.

18 When I came out, I worked. My concentration was on my
19 family, my kids. I then got married, something that I never
20 did, first time experience, and I pray and thank God that I did
21 get married to a wonderful wife.

22 I raised my kids, raised my stepsons to the best of my
23 abilities. Child support, had arrears in my neck. \$25,000 for
24 a person just coming out of prison, there is no way I could get
25 that amount of money. I still worked two jobs. I tried to

E3e2ram2

Sentence

1 commit, tried to make payments, have my son's custody, while he
2 was in my custody, I'm still paying back the arrears.

3 I apologize because I sold marijuana to try to
4 alleviate the hardship that I had. For that I take full
5 responsibility. But when Ms. Heller states here a
6 conversation, Richard Gonzalez called me, not me calling
7 Richard Gonzalez. And I told Richard Gonzalez, because he
8 wanted me to be a part of a Bad Boys, which I am not, it is
9 absurd to me. The Bad Boys did whatever they had to do. Us,
10 the majority of the guys that were with me, they were
11 legitimate. They have jobs. These guys, they was not going to
12 school. I made them go to school. They had to bring grades.

13 I'm not saying that I am a lamb and I am perfect. I
14 didn't commit no violence, your Honor. I have kids of my own.
15 You know? And for the reasons I became a Trinitario is totally
16 different from the reasons Richard Gonzalez became a
17 Trinitario. I am not a saint, but my life that I did in the
18 past, the drug selling, I left it. The only reason I sold
19 marijuana, and I reply to your Honor again, was because I had a
20 hardship.

21 My wife, she works, but it's hard for her. My wife is
22 sick, okay? My kids, one of them has ADHD. The other one has
23 a mental problem because of his biological mother, being two
24 years in a foster care that my family didn't even know that
25 they was in.

E3e2ram2

Sentence

1 So I don't portray to be this innocent, perfect guy.
2 I am not. What I tell you with my open heart, and God knows,
3 is that I never committed no violence. What I did was try to
4 help these young fellows.

5 Now, Webb wanted me to part of the Bad Boys and become
6 one. I would never accept that then, I would not accept that
7 now; and if he was standing right here I would look into his
8 eyes and tell him the same thing I am telling your Honor, that
9 he knows better in his heart. He knows the truth. He knows
10 that I was not part of his side of the team. He knows that I
11 had people doing the right thing.

12 And as far as that Flaco, your Honor, that fake Flaco,
13 I knew him. I knew that kid Flaco. And at the present moment
14 that Flaco character was in Rikers Island, and he had became --
15 when he came up to the Bronx, he ended up having a job. While
16 he was in the street trying to do other things, I made him get
17 a job. I made him go back to his mother's house.

18 These are the things the government don't look at.
19 These are the things that the government don't know. Why? I
20 am the only one of the Combo here. I'm not a part of the Bad
21 Boys. They not my friends. They not my, oh, I'm going to help
22 you out. They here to squeeze me. If they could get a 5K1 off
23 of me, then that's what they are going to do.

24 I'm not here telling you, your Honor, to try to make
25 it seem like I am a wonderful person, but I am not -- and I

E3e2ram2

Sentence

1 will repeat, I will refuse that Ms. Heller plummeted my name,
2 the way it is being tarnished. I am not saying, like I said
3 before, I say it again, your Honor, I take responsibility for
4 being a Trinitario member. I won't deny that. I take
5 responsibility for selling marijuana. I don't deny that. I
6 stayed without selling drugs for ten years your Honor when I
7 came home, when I could have easily, easily got the chance to
8 go back and sold drugs from the start, easily. I never went to
9 public assistance. I never tried that, nothing. Before I
10 start selling weed, I knocked on every single door, every
11 single door. But I would not have my wife, my kids, my
12 daughter, and all my family members in the street because I
13 cannot get a helping hand. So I did what I thought was best,
14 was legit.

15 And, yes, I have a double life, like Ms. Heller said,
16 and I sold weed. Yes. I did. But from there, to hurt people?
17 No. I have two sons in the audience. I have kids. Why would
18 I hurt somebody, that I wouldn't want that to happen to my son.
19 Right now he is 17 years old. He could be in that life. I
20 couldn't control my kids. I can't say and tell my kids, Don't
21 do this if I am doing it, your Honor.

22 ACS was in my house constantly, your Honor, watching,
23 observing, the environment of the kids. If you well know, your
24 Honor, as protective services, once you get them as a foster
25 kid, they look at you. They examine you. They evaluate you.

E3e2ram2

Sentence

1 These things coming to me, and I'm sorry and I am
2 about to say this, and I don't know if I am wrong -- my lawyers
3 might not agree with me, and I apologize -- but Ms. Heller is
4 going by what Richard Gonzalez is telling her, his events, what
5 he -- what helps him out in front of your Honor. This is
6 what's happening. Does she have facts? If there is any facts
7 of any violence in paper, an officer, an arrest or anybody that
8 could come forward and say that I physically hurted them, then
9 I will be quiet, your Honor. I will take whatever you want to
10 give me, whatever sentence you feel will be right for me. But
11 there is nobody here that can say that I ever hurt them ever,
12 ever.

13 As a matter of fact, there is a young gentleman that I
14 helped out. They wrote in the Facebook, and I didn't even know
15 him, and I told him to get a job. And his father died, and I
16 seen them like my son. They was kids that was thrown in the
17 street that was running crazy in the street, didn't have a
18 place to live. I used to let them stay in my house with the
19 option of you got to work, get better, go back to your family
20 with a high school diploma. The majority of the guys that I
21 know that are supposed to be Combo, they all legitimate
22 workers. Some have high school diploma. Some don't have high
23 school, but they work legit.

24 That's all I have to say, your Honor. My life is in
25 your hands. First, in God's hands. God knows, if anybody, God

E3e2ram2

Sentence

1 knows what I have done, and what I have been. Now I plead to
2 you, your Honor, that my life is in your hands. You know what
3 I'm saying? You understand, your Honor? Whatever you decide,
4 I have to accept it, but I want you to know that the thought of
5 me being a violent person, of such criminal, that's not me. I
6 don't hurt people. There is a lot of people out there that I
7 helped. There is a lot of families out there that I got their
8 kids and took them from the wrong turn to a positive turn.

9 Did I have to deal with Webb? I had to talk to him
10 them two conversations. Why? Because he is ranked so high.
11 He is above me. But I didn't have to. He could be as high as
12 the president, but it is up to my choice to accept his deals.
13 It is my choice to accept if I want to run with what he says,
14 and I didn't. And for that today, Richard Gonzalez is slashing
15 me. For that today, Richard Gonzalez will step on me. And
16 what I really believe that Trinitario is all about is to get
17 himself out of problems.

18 That's all I have to say, your Honor. I thank you for
19 all this time you took looking into the case. I apologize to
20 the United States government. I apologize first and foremost
21 to God for me being here, and I regret the mistake of me
22 selling weed. And I apologize to my family, my wife and my
23 sons that are in the audience. They have to see me after ten
24 years sitting here in this court, being charged of a crime.

25 Thank you, your Honor, for your time.

E3e2ram2

Sentence

1 THE COURT: Thank you, Mr. Ramos. We are going to
2 take a five-minute recess. Thank you.

3 (Recess)

4 THE COURT: Is there any reason why sentence should
5 not now be imposed?

6 MR. EPSTEIN: No, your Honor.

7 MS. HELLER: Not unless your Honor would like a
8 further hearing. Not unless your Honor would like a further
9 hearing on any of the facts.

10 THE COURT: I don't. Thank you.

11 As I have stated, the guideline range that applies to
12 this case is between 100 and 125 months' imprisonment, although
13 the court has committed to impose a sentence no higher than 87
14 to 108 months, consistent with the parties' plea agreement.

15 Under the Supreme Court's decision in *Booker* and the
16 cases that have followed it, the guidelines range is only one
17 factor that the court must consider in deciding the appropriate
18 sentence. The court is also required to consider the other
19 factors set forth in 18 U.S.C. § 3553(a). These include the
20 nature and circumstances of the offense and the history and
21 characteristics of the defendant, the need for the sentence
22 imposed to reflect the seriousness of the offense, to promote
23 respect for the law, and to provide just punishment for the
24 offense, to afford adequate deterrence for criminal conduct, to
25 protect the public from further crimes of the defendant, and to

E3e2ram2

Sentence

1 provide the defendant with the needed educational or vocational
2 training, medical care or other correctional treatment in the
3 most effective manner.

4 It is important that the court avoid unwarranted
5 sentencing disparities among defendants with similar records
6 who have been found guilty of similar conduct. That situation
7 is particularly important in a large multidefendant case such
8 as this, where there are various vantage points for comparison
9 and contrast. The court is also required to impose a sentence
10 sufficient but no greater than necessary to comply with the
11 purposes set out above.

12 I find, after giving the matter a great deal of
13 thought, that the sentence I am going to pronounce is
14 sufficient but not greater than necessary to satisfy the
15 purposes of sentence that I just mentioned.

16 Mr. Ramos, I have given a lot of thought to the
17 appropriate sentence in this case in light of the 3553(a)
18 factors and the purposes of sentencing. These are my thoughts.

19 As of today, I have sentenced at least three dozen
20 defendants in this large case. Your case presents an unusual
21 and, indeed, I think a unique combination of factors. On the
22 other hand, you are a high-ranking member of a portion of the
23 gang or a part of the gang, higher ranking than almost all of
24 the defendants in this case that I have sentenced to date. And
25 the quantity of marijuana you are responsible for under the

E3e2ram2

Sentence

1 plea agreement, between 100 and 400 kilograms, I believe
2 exceeds that in any prior Trinitario sentencing. Of course
3 there are other defendants who have not been sentenced who are
4 more senior, but as of now you top out or close to top out both
5 as to your rank and as to the quantity of marijuana.

6 On the other hand, there is no allegation that you
7 participated in an act of violence, that you instigated or
8 ordered an act of violence, or carried a gun. There is also no
9 evidence that you sold drugs other than marijuana in connection
10 with the Trinitarios. And there are aspects of your life that
11 are generally mitigating to a degree simply not present or even
12 close in most Trinitarios sentences. So the right and just
13 sentence in this case presents by a considerable degree more of
14 a challenge than in most. I have struggled with the right
15 balance here and I took the break I did now just to collect my
16 thoughts.

17 I am going to elaborate now and I am going to begin by
18 first addressing the factors that point in the direction of the
19 higher sentence and then address the ones that point toward as
20 lower one.

21 First of all, let me address the marijuana. By your
22 own account, you were a drug dealer and on a prodigious scale.
23 Under the plea agreement, you are accountable for the
24 distribution of between 100 and 400 kilograms of marijuana.
25 Now, I understand that other drugs sold by the Trinitarios are

E3e2ram2

Sentence

1 far more destructive than marijuana, including cocaine and
2 crack and various prescription medications, but your drug
3 dealing cannot be minimized as a small thing. Marijuana
4 dealing can lead to addiction, it can lead to the use of and
5 addiction to harder drugs, it can lead to wasted lives, it can
6 destroy families and communities. And in my two and a half
7 years on the bench I have seen far too many cases of drug
8 addiction that appeared to have started off with marijuana and
9 have led to harder drugs and all sorts of criminality. Given
10 its scale, your drug dealing, by definition, enhanced those
11 risks for far too many people, and we will never know or be
12 able to trace what became of the people who you supplied drugs
13 to.

14 Second, you were the leader of the El Combo faction of
15 the Trinitarios gang. That is beyond dispute. It is the
16 reason for your stipulation to the four-level leader
17 enhancement under the sentencing guidelines. That is a
18 significant aggravating factor. I fully understand that you
19 yourself personally are not accused of participating in or
20 instigating acts of violence committed by El Combo. I also
21 accept that aspects of the gang's conduct were not criminal and
22 that the gang on occasion could play a constructive role, the
23 example being here the support the gang provided for you when
24 you were in prison. I also understand that there is dispute
25 between the parties as to your understanding and role in

E3e2ram2

Sentence

1 connection with a particular green light. But that dispute,
2 which I need not resolve here, and those other points cannot
3 and should not obscure the bigger picture.

4 In the aggregate, the Trinitarios were a violent gang.
5 It devastated its community. The El Combo faction although, by
6 all accounts, far less violent than the Bad Boys, was on
7 occasion plenty violent. I fully accept that you were not
8 personally involved in violence, that you did not commission
9 it, but it defies credibility to claim that you were blind to
10 the violent aspects of the overall gang or the faction you led,
11 and the evidence seems pretty clear that the El Combo faction
12 was in a violent dispute with the Bad Boys faction, in effect,
13 on your watch. Given that, your leadership role is an
14 aggravating fact. You, through your leadership, helped fortify
15 a gang that was, by any measure, up to no good, and your drug
16 dealing helped fund it. Any objective assessment to your
17 conduct has to treat your leadership role in a major faction of
18 the Trinitarios as seriously aggravating conduct.

19 Putting all this in Section 3553(a) terms, this
20 conduct requires a substantial sentence for several reasons.
21 Such a sentence would reflect the seriousness of your conduct,
22 it would help promote respect for the law, and it is important
23 in the interests of general deterrence. It is important that
24 the word go out to others who would consider either selling
25 prodigious quantities of marijuana or taking leadership roles

E3e2ram2

Sentence

1 in dangerous gangs, that if they get caught, they will go to
2 jail and for a meaningful period of time.

3 Another factor that points toward a meaningful
4 sentence here is what we call specific deterrence, and that
5 means the need to send a message to you personally, Mr. Ramos,
6 that is sufficient to deter you from committing crimes. Your
7 prior criminal record is not nearly as severe as some other
8 defendants in this case whom I have sentenced, but there are
9 also plenty who have had shorter criminal records. The
10 presentence report reflects four prior convictions on your
11 part -- in 1996, actually conditional discharge based on your
12 being a youthful defender for criminal possession of 90 small
13 bags of crack; in 2000 for criminal sale of a controlled
14 substance; in 2000, again, for criminal possession of a
15 controlled substance, again crack; and, finally, in 2001, for
16 sale of a hallucinogenic narcotic.

17 The two longest sentence you have received were 45
18 days for the second to last conviction and a year to the last
19 one. Those sentences, particularly the last one for a full
20 year, should have gotten your attention. It should have been a
21 wake-up call to you to stop committing crimes and to clean up
22 your act. I am sure that is what the judges in those cases
23 must have intended and hoped, but it didn't serve as a wake-up
24 call or at least as a successful one.

25 You got out of jail and you became an active member

E3e2ram2

Sentence

1 and, indeed, a leader of the Trinitarios, essentially by your
2 own account a professional marijuana dealer. I understand
3 there is a context that led you into the marijuana dealing
4 business but nevertheless you did it. The sentence that I
5 impose therefore has to be much longer than the ones before to
6 supply the wake-up call that you need. It has to be long
7 enough and loud enough to deter you personally from committing
8 any further crimes, and it will be.

9 The final point I will make on this side of the
10 equation is this: Today you are 35 years old. You will be 36
11 in April. The crimes you committed in connection with the
12 Trinitarios, unlike your historical narcotics distribution
13 crimes, were committed in your late twenties and your early
14 thirties. A number of Trinitarios members I have sentenced
15 committed their crimes in the teens. The point could be
16 validly made, and there is evidence for it, that they were
17 impressionable adolescents led astray by older men to commit
18 crimes. The argument was that they were still growing up and
19 that they were subject to the bad and reckless and impulsive
20 decision-making that young adolescent men sometime are. That
21 argument is not available to you. You were older and you knew
22 better. Quite the contrary, as a 30-something-year old leader
23 of the Trinitarios, faction you were part of the problem. You
24 were the older generation that lured in and led astray younger
25 members of the Trinitarios. I must consider that, too, in

E3e2ram2

Sentence

1 determining a just sentence.

2 As I noted at the outset, however, there are factors,
3 a number of them here, that point in the other direction in
4 favor of a lower sentence. I am going to review them now.

5 To begin with, you accepted responsibility. You pled
6 guilty. That matters to me. Had you not done so, the
7 guidelines would have called for a materially higher sentence,
8 and I can assure you I would have imposed a materially higher
9 sentence. Your letter to me also reflected acceptance of
10 responsibility, and I thought your statement to me a few
11 minutes ago reflected, in my view, a very clear acceptance of
12 responsibility and understanding expressed in very emotional
13 terms of your acknowledgment of what you did wrong and your
14 regret for what you did wrong.

15 I also recognize that you have earned a very favorable
16 work performance rating for your jobs in prison. That is some
17 indication of acceptance of responsibility. It is certainly an
18 indication of turning over -- or beginning to turn over a new
19 leaf.

20 Second, as I have mentioned before, it does appear
21 that you personally steered clear of direct involvement in
22 violence, the violence characteristic of so many other members
23 of the gang. You also did not carry a gun, I should add. And
24 there are indications, as Mr. Epstein has said, of instances in
25 which you counseled against violence. To be quite clear, I

E3e2ram2

Sentence

1 certainly cannot find that that was always the case. The
2 evidence is elusive on that point. But there is certainly
3 proof that it was sometimes so that you counseled against
4 violence, and I recognize that. That is also important to me.
5 If one were to take a look at the sentence I have imposed in
6 this overall case, the defendants as to whom I have imposed the
7 highest sentence have tended to be the ones who have engaged in
8 acts of violence. And for good reason, you benefit from that
9 contrast.

10 Third, you have an impressive history of gainful
11 employment. You have a long string of legitimate jobs. A
12 factory, Blockbuster Video, Food Emporium, at FAO Schwartz, at
13 Jewish Medical Center, at Lewis Theater, at Fordham Glass. It
14 did appear to me, although you resist the characterization by
15 the government, that the characterization is quite right that
16 you have led something of a double life, with one part being a
17 productive member of society and another part an active gang
18 member and marijuana dealer. I don't know how else to put that
19 other than a double life. Many of the Trinitarios I have
20 sentenced have led a single life, and it didn't include the
21 positive side. That is, your life story in that respect is
22 much more than can be said for your Trinitario colleagues.
23 Here again you benefit by the contrast.

24 Fourth, I understand there is a context for your
25 emerging upon release from jail into marijuana dealing in

E3e2ram2

Sentence

1 connection with the gang. You were in financial dire straits
2 with child support arrears and other debts and obligations to
3 your children. Obviously, and you know this that is no excuse
4 for drug dealing, but it is relevant context and it does help
5 explain why you did what you did.

6 Fifth, in considering the weight to be attached to the
7 sentencing guidelines, I am mindful that the guidelines here
8 are overwhelmingly driven by the quantity of marijuana
9 involved. As Mr. Epstein fairly pointed out, the Attorney
10 General has recently recommended a downward revision with
11 regard to the offense level triggered by certain quantities of
12 marijuana under the guidelines; and even before that it had
13 been my judgment, having presided over quite a number of
14 sentences now, that where the guidelines tend to be least
15 useful is when they are overwhelmingly and lopsidedly driven by
16 quantitative features, whether quantity of money in a fraud
17 case or quantity of a particular drug in a drug case. This is
18 such a case; and, therefore, it is my view that the guidelines
19 significantly overstate the overall criminality here.

20 Sixth, you have been in significant and demonstrated
21 ways a very dedicated father. I was moved by your having
22 rescued your children from abuse in foster care after your
23 release from prison and having brought them into your home and
24 given them your love. Many biological fathers in this world
25 and in this city, even those who have not been in jail, have

E3e2ram2

Sentence

1 not taken their paternal responsibilities nearly so seriously.
2 Actions speak louder than words. Your criminal actions speak
3 loudly here, too, but your paternal actions speak very loudly
4 as well.

5 And I was moved by the letters from your children, and
6 they are worth reading a little bit of here. Your son Isaiah
7 writes in relevant part, "Your Honor, ever since my dad got me
8 and my brother out of the foster care system, my life has been
9 more positive. My dad has showed me that a real man is made of
10 the following qualities: honesty, humbleness, caring, and being
11 truthful, and helping out your community, as well as your
12 peers. That man needs to be a role model for kids as well as
13 adults. I miss him so much. To me my dad is my hero, and I
14 need him in my life."

15 And your son Anibal Jr. writes in pertinent part, "My
16 father has shown us the sense and value of education and
17 earning a dollar the right way. He has told me that education
18 comes first and that without it us, as poor, lower class
19 families, would not survive in this society. My father also
20 told me he wanted me and my brother to be better than what he
21 was, that he had high expectations of us, and that he never
22 wanted to see us commit the same mistakes as he did when he was
23 growing up."

24 Those are lovely things for children to be able to say
25 about a father, and I put weight in them.

E3e2ram2

Sentence

1 All of that is very important to me and it is also
2 relevant under Section 3553(a). Under Section 3553(a), among
3 the factors I am to consider are your history and your
4 characteristics. You have positive ones here, too, notably,
5 your contributions as father. I consider those, too, in
6 determining a just sentence. It is right that on the day of
7 your sentence you be judged based on the totality of your life,
8 the good as well as the bad, and not evaluated solely based on
9 your crime. The sentence I impose will do that. I should say
10 that your remarks today and your track record as a father and
11 your demonstrated commitment to your children is relevant to
12 the issue of specific deterrence as well. It gives me greater
13 confidence than I would otherwise have that, once released from
14 prison, you will be trying very hard -- I can't be sure that it
15 will be successful, but I am confident you will be trying your
16 hardest not to commit crimes.

17 In the end, my judgment is that a sentence within the
18 87- to 108-month guideline range is higher than necessary to
19 achieve the purposes of sentencing here. My judgment is that a
20 sentence lower than that is sufficient to achieve the purposes
21 of sentencing. A substantial sentence, nevertheless, is needed
22 here to reflect the seriousness of your criminal conduct, to
23 promote respect for the law, and to achieve general deterrence.

24 Your very able lawyers have urged me to impose a
25 sentence of 48 months' imprisonment. It is rare that I have

E3e2ram2

Sentence

1 accepted such a recommendation. My view, however, after
2 careful consideration, is that, on the unique facts here, that
3 that recommendation is reasonable and right. It fairly
4 balances the Section 3553(a) factors. I will therefore state
5 the sentence I intend to impose. The attorneys will have a
6 final opportunity to make legal objections before the sentence
7 is finally imposed.

8 Mr. Ramos, would you please rise.

9 After assessing the particular facts of this case and
10 the factors under Section 3553(a), including the sentencing
11 guidelines, it is the judgment of the court that you are to
12 serve a sentence of 48 months' imprisonment in the custody of
13 the Bureau of Prisons, to be followed by a period of three
14 years' supervised release. I impose that same sentence on each
15 count, the sentences to run concurrently.

16 As to supervised release, the standard conditions of
17 supervised release shall apply.

18 In addition, you will be subject to the following
19 mandatory conditions:

20 You shall not commit another federal, state, or local
21 crime.

22 You shall not illegally possess a controlled
23 substance.

24 You shall not possess a firearm or other destructive
25 device.

E3e2ram2

Sentence

1 You shall refrain from any unlawful use of a
2 controlled substance.

3 You shall submit to one drug test within 15 days of
4 placement on probation or supervised release and at least two
5 unscheduled drug tests thereafter as directed by the probation
6 officer.

7 You shall cooperate in the collection of DNA as
8 directed by the probation officer.

9 In addition, you must meet the following special
10 conditions:

11 The first one is one that I am adding to the ones in
12 the probation department recommendation which is, I will direct
13 you, as I have in the other cases in this overall case, not to
14 have any contact or dealings with any other members of the
15 Trinitarios gang.

16 I am also going to adopt the other special conditions
17 in the probation report.

18 You shall participate in a mental health program
19 approved by the U.S. Probation Office.

20 You shall submit your person, residence, place of
21 business, vehicle, or other premises under your control to a
22 search on the basis that the probation officer has reasonable
23 belief that contraband or evidence of a violation of conditions
24 of release may be found.

25 You are to report to the nearest probation officer

E3e2ram2

Sentence

1 within 72 hours of release from custody.

2 I have the legal authority to impose a fine. I am not
3 going to do so. I conclude that you don't have the ability to
4 pay one. The government is not seeking forfeiture or
5 restitution is not a factor here. I am required to impose and
6 do impose a mandatory special assessment of \$200 which shall be
7 due immediately.

8 Do either counsel know of any legal reason why this
9 sentence shall not be imposed as stated?

10 MS. HELLER: No, your Honor.

11 MR. EPSTEIN: No, your Honor.

12 THE COURT: The sentence as stated is imposed.

13 Ms. Heller, are there any open counts?

14 MS. HELLER: Yes, there are, so we would ask to
15 dismiss them at this time and any underlying indictments as
16 well.

17 THE COURT: Good. That motion is granted.

18 Mr. Ramos, to the extent you haven't already given up
19 your right to appeal your conviction or your sentence as a
20 result of your plea of guilty and the agreement you have
21 entered into with the government in connection with that plea,
22 you have the right to appeal your conviction and your sentence.
23 If you are unable to pay for the cost of appeal you may apply
24 for leave to appeal *in forma pauperis*. The notice of appeal
25 must be filed within 14 days of the judgment of conviction.

E3e2ram2

Sentence

1 Is there anything further from the defense? Is there
2 a request as to recommendation

3 MR. ZISSOU: A recommendation to either Fort Dix or
4 the northeast region, whatever your Honor's pleasure is.

5 THE COURT: I usually frame it in terms of a facility
6 closest to the New York City area, but if you have a specific
7 one, I do I will do that. What do you want? If you have a
8 specific facility for me to recommend, I will be --

9 MR. ZISSOU: Fort Dix is the preferred facility. Is
10 your Honor inclined to recommend a drug treatment program while
11 he is incarcerated?

12 THE COURT: I think I will leave it to the judgment of
13 the Bureau of Prisons. There is not an indication on the
14 record here that that is a problem for your client, so it seems
15 to me that there are others who are more deserving.

16 MR. ZISSOU: I didn't know if your Honor had noted
17 that among the terms of conditions of supervised release was
18 that he would get drug testing.

19 THE COURT: Look, if the Bureau of Prisons determines
20 he is eligible, that's fine. I wasn't inclined to recommend
21 it. I understand that is often a route in practice to a
22 shorter sentence, but the record here, in candor, unlike some
23 other cases, does not seem to indicate that it is needed.

24 MR. ZISSOU: Understood.

25 THE COURT: Anything else for the government?

E3e2ram2

Sentence

1 MS. HELLER: No, your Honor. Thank you.

2 THE COURT: Anything for the defense.

3 MR. EPSTEIN: No, thank you very much, your Honor.

4 THE COURT: Thank you. Have a good day good weekend.

5 Mr. Ramos, I wish you well. Let me just say are those your
6 family out in the back?

7 THE DEFENDANT: Yes.

8 THE COURT: I want to acknowledge your presence here I
9 imagine it is a hard day to watch family member, father,
10 husband be sentenced. I want to thank you for your
11 participation in the process. I believe that is your son who
12 wrote one every those letters as you can tell that made a
13 difference to me and helped give me a further better sense of
14 who your father is. I appreciate your participating in the
15 process in that way. Thank you.

16 MR. EPSTEIN: Thank you, your Honor.

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